

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: November 17, 2004

Division: Public Works

Bulk Item: Yes X No

Department: Facilities Maintenance

AGENDA ITEM WORDING: Approval of a Lease Agreement with L.H. Kephart, d/b/a Eaton Street Professional Center, to lease approximately 8,280 square feet of office space for the Key West Public Defender.

ITEM BACKGROUND: On November 30, 2004, the current lease with Mr. Kephart will expire without an option to renew. After searching Key West for alternative space to no avail, negotiations were reached to renew the contract at the Eaton Street Professional Center for a three-year period.

PREVIOUS RELEVANT BOCC ACTION: N/A

CONTRACT/AGREEMENT CHANGES: The rent increases from \$17.52 per square foot for the expiring lease to \$24.00 per square foot for the new Lease Agreement. The increase in price per square feet was based upon proposals from two appraisers researching market rent in Old Town, Key West.

STAFF RECOMMENDATIONS: Approval as stated above.

TOTAL COST: \$198,720.00 per year

BUDGETED: Yes X No

COST TO COUNTY: \$198,720.00 per year

SOURCE OF FUNDS: Ad Valorem

REVENUE PRODUCING: Yes No X **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty. OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:

 11/2/04
Dent Pierce, Director Public Works

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # F19

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: L.H. Kephart Contract #
Effective Date: 12/01/04
Expiration Date: 11/30/07

Contract Purpose/Description:

To lease 8,280 s.f. of office space for the Key West Public Defender at \$24.00 per s.f.

| | | | |
|-------------------|------------------|-------------|---------------------------------|
| Contract Manager: | <u>Ann Riger</u> | <u>4549</u> | <u>Facilities Maint/Stop #4</u> |
| | (Name) | (Ext.) | (Department/Stop #) |

for BOCC meeting on 11/17/04 Agenda Deadline: 11/02/04

CONTRACT COSTS

| | | | | |
|------------------------------------|-------------------------------------|-------------|--------------------------|--------------------------------|
| Total Dollar Value of Contract: \$ | | \$198,720.0 | Current Year Portion: \$ | 165,600 |
| Budgeted? Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | Account Codes: -69800-530-440- |
| Grant: \$ | N/A | | - | - |
| County Match: \$ | N/A | | - | - |

ADDITIONAL COSTS

Estimated Ongoing Costs: \$3025/yr For: Sewer/Water (\$100/mo) & Dumpster (152⁰⁷/mo)
(Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

| | Date In | Changes Needed | Reviewer | Date Out |
|-------------------|----------|---|-------------------|----------|
| Division Director | 11/9/04 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | D. Pierce / Bl | 11/9/04 |
| Risk Management | 11/11/04 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | M. Slomski | 11/11/04 |
| O.M.B./Purchasing | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Shirley A. Barker | 11/2/04 |
| County Attorney | 11/3/04 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | S. H. H. | 11/04/04 |

Comments:

LEASE AGREEMENT

State of Florida
County of Monroe

This Lease Agreement entered into this 17th day of November, 2004, between L.H. KEPHART d/b/a EATON STREET PROFESSIONAL CENTER, party of the first part, hereinafter called the Lessor, and the BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, party of the second part, hereinafter called Lessee.

WITNESSETH:

WHEREAS, that the lessor does this day lease unto said lessee,
and

WHEREAS, said lessee does hereby hire and take as tenant under said lessor room or space, as shown on EXHIBIT A, attached hereto and made a part thereof, situated at:

EATON STREET PROFESSIONAL CENTER, KEY WEST
MONROE COUNTY, FLORIDA;

To be used and occupied by the lessee as offices of the Public Defender and for no other purpose or uses whatsoever, and

WHEREAS, beginning on the 1st day of December, 2004 and ending on the 30th day of November, 2007 and

NOW, THEREFORE, for the agreed annual rental sum of \$198,720.00
Payable to EATON STREET PROFESSIONAL CENTER, AT 524 Eaton Street, Key West, Florida 33040, and other good and valuable consideration, the parties agree as follows:

1. Lessor shall lease to lessee and lessee shall lease from lessor the above-described premises.
2. Lessee shall lease 8,280 square feet at \$16,560.00 per month. Additionally, lessee shall pay \$100.00 per month for sewer and water; \$152.07 per month for a dumpster, payable within (30) Thirty days of each due date, commencing on December 1, 2004 and ending on November 30, 2007. Increases for sewer, water, and dumpster shall be addressed on a case by case basis, based on increases by the service provider.
3. Lessee has the option to renew the lease for two additional one year periods.
4. The lease amount agreed to herein might be adjusted annually in accordance with the percentage change in the Consumer Price Index for all urban consumers (CPI-U) for the most recent 12 months available.
5. All additions, fixtures or improvements which may be made by lessee, except movable office furniture and equipment, shall become the property of the lessor and remain upon

the premises as a part thereof and be surrendered with the premises at the termination of this lease unless otherwise agreed upon by the parties thereof.

6. All personal property placed or moved in the above-described premises shall be at the risk of the lessee or owner thereof, and lessor shall not be liable for any damages to said personal property.
7. In the event the premises shall be destroyed or so damaged or injured by fire or other casualty during the life of this agreement, whereby the same shall be rendered untenable, then the lessor shall have the right to render said premises tenantable within (90) Ninety days therefrom. If said premises are not rendered tenantable within said time frame, it shall be optional with either party hereto to cancel this lease and in the event of such cancellation, the rent shall be paid only to the date of such fire or casualty. The cancellation herein mentioned shall be evidenced in writing.
8. Lessee shall have the right to sublet the premises for the duration of the term of this lease, subject to the lessor's approval, provided that such approval shall not be unreasonably withheld.
9. Lessee agrees to pay the cost of collection and ten percent (10%) attorney's fee on any part of said rental that may be collected by suit or by attorney, after the same is past due.
10. The lessee agrees that it will pay all charges for rent, gas, water, sewer, trash, electricity or other illumination used on said premises, and should charges for rent or lights herein provided for at any time remain due and unpaid for the space of (30) Thirty days after the same shall have become due, the lessor may at its option consider the said lessee/tenant at sufferance and immediately re-enter upon said premises and the entire rent for the rental period then next ensuing shall at once be due and payable and may forthwith be collected by distress or otherwise.
11. The lessor, or any of its agents, shall have the right to put or keep upon the doors or window thereof a notice "FOR RENT" at any time within (30) Thirty days before the expiration of this lease. The right to entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations, or additions, which do not conform to this agreement, or to the rules and regulations of the building.
12. Lessee hereby accepts the premises only after the repairs are completed (within 6 months from the commencement date of this lease) at the expense of the lessor and as described as follows:
 - a) Upgrade the upstairs restrooms to include flooring and painting.
 - b) Repair collapsing wall in Rosemary's office.
 - c) Repair chronic roof leaks in the upstairs ceiling by the restrooms.
 - d) Repair existing water damaged ceiling tile, walls, and carpeting.
 - e) Perform an indoor air quality assessment (after all repairs are completed)
 - f) Correct the chronic flooding under the easterly door.
 - g) Lessor's maintenance man will check the air handler on a monthly basis. Lessee will be allowed to call Lessor's Air Conditioning contractor when needed.

- h) Provide adequate access to the roof top A/C unit.
- i) Insulate the ceilings.
- j) Remove all front entrance pavers and replace with new non-slip outside flooring.

Upon completion of aforementioned repairs, lessee agrees to maintain said premises in the same condition, order and repair as there were at the commencement of said term, exception only reasonable wear and tear arising from the use thereof under this agreement, and to make good to said lessor immediately upon demand, any damage to water apparatus or electric lights or any fixtures, appliances or appurtenances of said premises, or of the building, caused by any act or neglect of lessee, or of any person or persons in the employ or under the control of the lessee.

- 13. This contract shall bind the lessor and its assigns or successors, and the heirs; assigns, administrators, legal representatives, executors or successors as the case may be of the lessee.
- 14. It is understood and agreed between the parties hereto that time is of the essence of this contract and this applies to all terms and conditions contained herein.
- 15. It is understood and agreed between the parties hereto that written notice mailed or delivered to the office of the lessor shall constitute sufficient notice to the lessor, to comply with the terms of this contract.
- 16. The rights of the lessor under the foregoing shall be cumulative, and failure on the part of the lessor to exercise promptly any rights given hereunder shall not operate to forfeit any of the said rights.
- 17. It is further understood and agreed between the parties hereto that any charges against the lessee by the lessor for services or for work done on the premises by order of the lessee or otherwise accruing under this contract shall be considered as rent due and shall be included in any lien for rent due and unpaid.
- 18. **PARKING**
 - a) Parking is to be provided by the lessor between the hours of 6:00 a.m. and 6:00 p.m. Monday through Friday, throughout the term of this lease, as per Exhibit "B" attached hereto and incorporated by reference, with lessor retaining rights to (3) eight spaces.
 - b) Lessor shall provide (3) parking passes to the lessee to be utilized at the parking lot as depicted in Exhibit "B" between the hours of 6:00 p.m. and 6:00 a.m., (7) seven days per week, throughout the term of the lease.
 - c) Lessor shall provide lessee (3) three parking spaces on the east side of the building to be utilized (7) seven days per week, (24) twenty-four hours per day.
 - d) Lessor maintains the right to provide alternate parking for repairs and or construction in or around the parking lot, within reasonable distance from the referenced lease site.

19. **ELEVATOR**

Lessor will provide an elevator to the second floor, and the loss of the current office utilized by the Lessee will be compensated by a comparable square footage on the premises, or by a reduction in rent by the cost per square foot multiplied by the total amount of square footage lost.

20. TERMINATION:

- a) This agreement may be terminated without penalty by either the lessor or lessee upon providing a (6) six month written notice mailed or delivered to the other party
 - b) In the event that funds from the budget of Monroe County are partially reduced or cannot be obtained or cannot be continued at a level sufficient to allow for the rental of property specified herein, this agreement may then be terminated immediately at the option of the Board by written notice of termination delivered in person or by mail to the lessor. The Board shall not be obligated to pay for any rental provided by the lessor after the lessor has received written notice of termination.
 - c) This lease may be terminated by the Lessee upon written sixty (60) days notice to the Lessor that the Lessee has obtained adequate office space in a governmental building.
21. The lessor herein expressly agrees to maintain the subject premises in full compliance with the American Disabilities Act. Further, the lessor shall be liable for any cost or expenditure associated with said compliance. However, in the event the total cost or costs associated with said compliance reaches \$5,000.00 during the term of this agreement, the lessor shall have the option of terminating this agreement as provided in Article 18a above. Further, during the (6) Six-month notice period provided in Article 18a, the lessor shall not be liable for any costs of said compliance above \$5,000.00.
22. The lessor herein expressly agrees to maintain the common bathrooms utilized by the tenants of the subject premises in a clean, sanitary manner. Further, the lessor expressly agrees to be liable for any cost or expenditure associated with it.
23. Notwithstanding the provisions contained in paragraph 8 above, the lessee, with the assistance of the Monroe County Public Works Division, herein expressly agrees to be liable for normal routine maintenance associated with operation of the air conditioning system located on the subject premises, limited to cleaning and changing the filters, coils and belts, as well as monthly cleaning of the drain. The lessor herein expressly agrees to be responsible for all costs associated with maintenance and operation of the air conditioning system, including all electrical, mechanical components, coils, condensers, and refrigerants.
24. The lessor herein expressly agrees to maintain the subject premises in full compliance with all safety codes and standards, and remedy all safety hazards as deemed appropriate by the Monroe County Safety Manager. Further, the lessor shall be liable for any cost or expenditure associated with said compliance. However, in the event the total cost or costs associated with said compliance reaches \$5,000.00 during the term of this agreement, the lessor shall have the option of terminating this agreement as provided in Article 18a above. Further, during the (6) Six-month notice period provided in Article 18a, the lessor shall not be liable for any costs of said compliance above \$5,000.00.

25. Lessor warrants that it has not employed, retained or otherwise had act on its behalf any former County officer or employee subject to the prohibition of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 020-1990. For breach or violation of this provision the lessee may, in its discretion, terminate this contract or purchase price, or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee.
26. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid in a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided I Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
27. Exhibit "C", attached hereto and incorporated as part of this lease document, is a survey of the property.

IN WITNESS WHEREOF, the parties hereunto executed this instrument for the purposes herein expressed, the day and year first above written.

SIGNED, SEALED and DELIVERED in the presence of

EATON STREET PROFESSIONAL CENTER

Witness as to Lessor

By: _____
Lynn Kephart

Witness as to Lessor

Attest: DANNY L. KOLHAGE, CLERK

MONROE COUNTY BOARD OF COUNTY
COMMISSIONERS

By: _____

By: _____

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

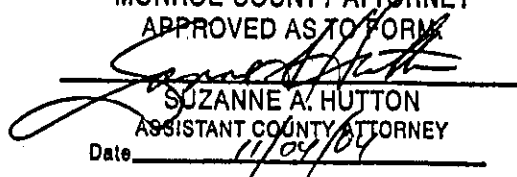
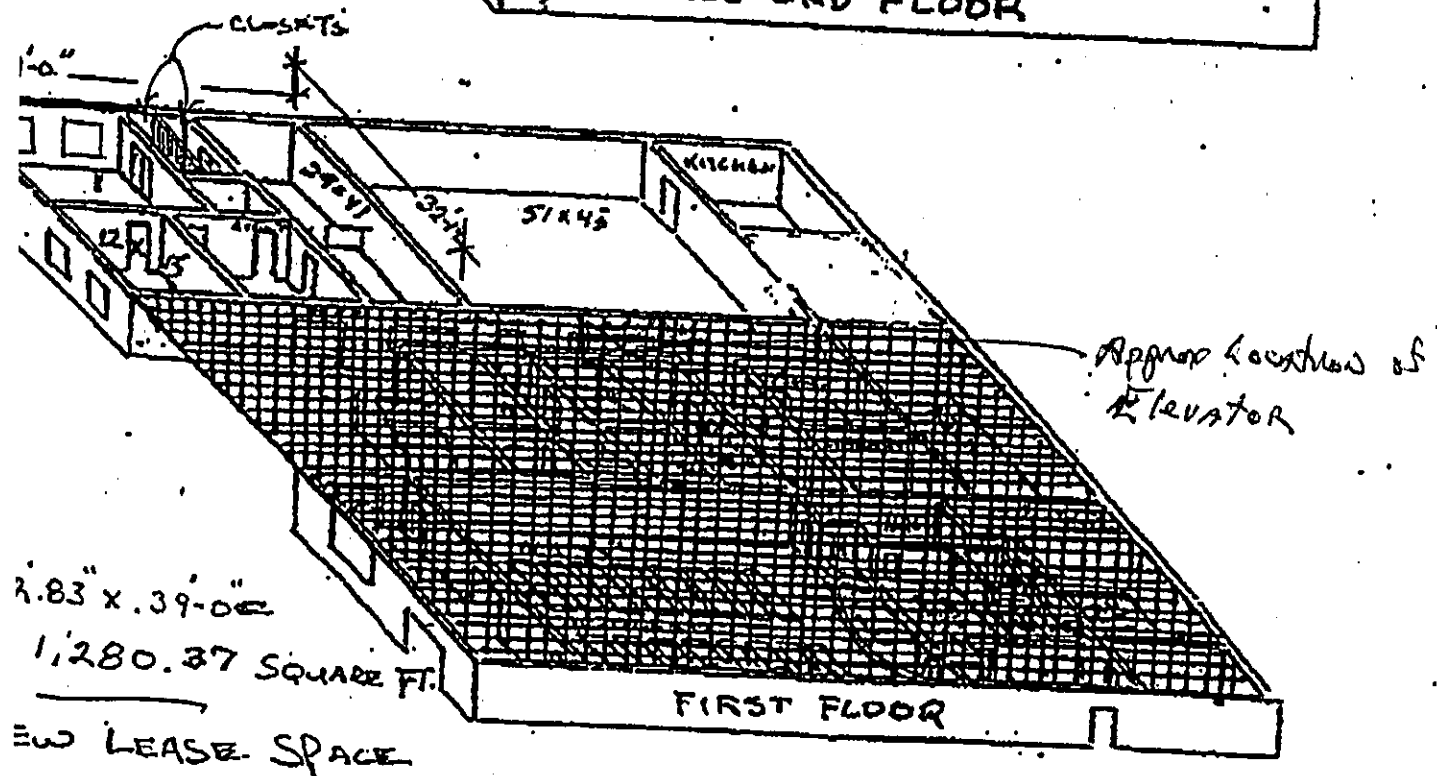
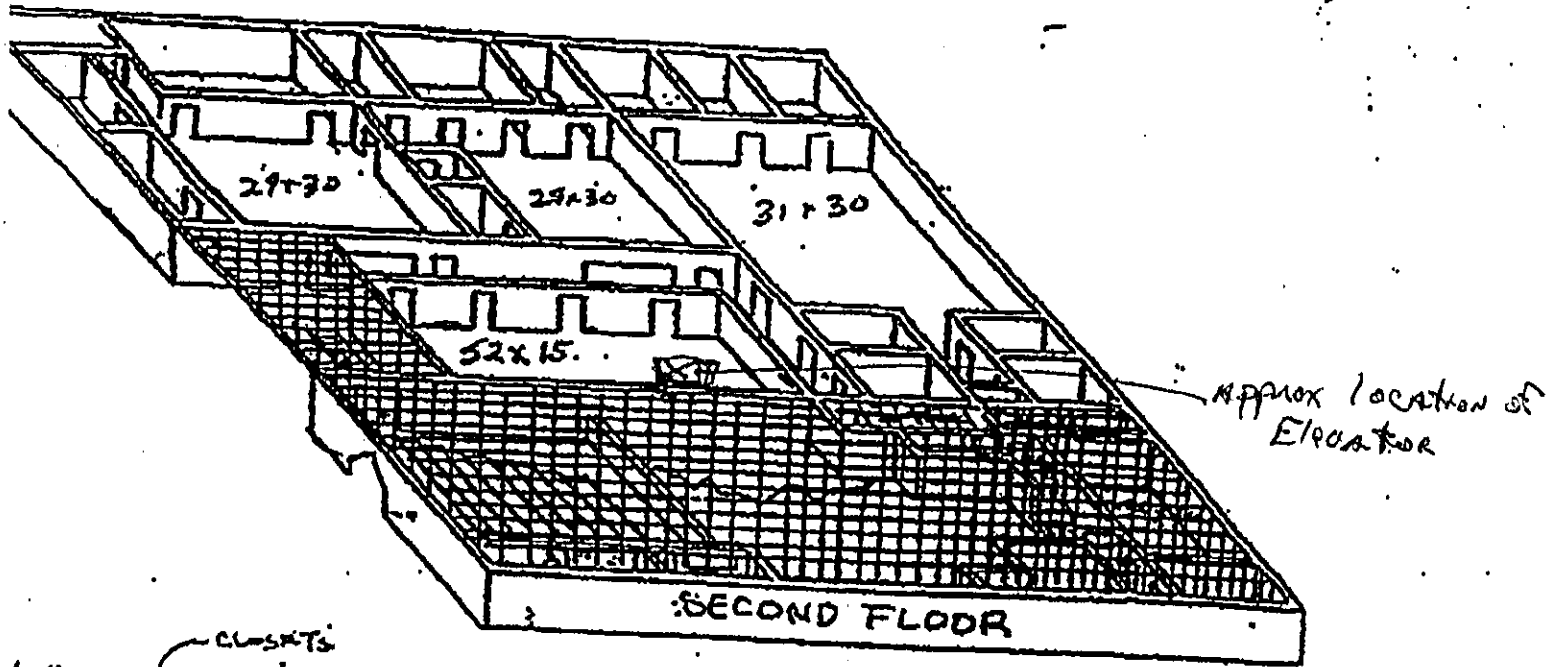

SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 11/04/04

EXHIBIT "A"



524 BAHAMA STREET
KEY WEST, FLORIDA 33010

1994

EXHIBIT "B"

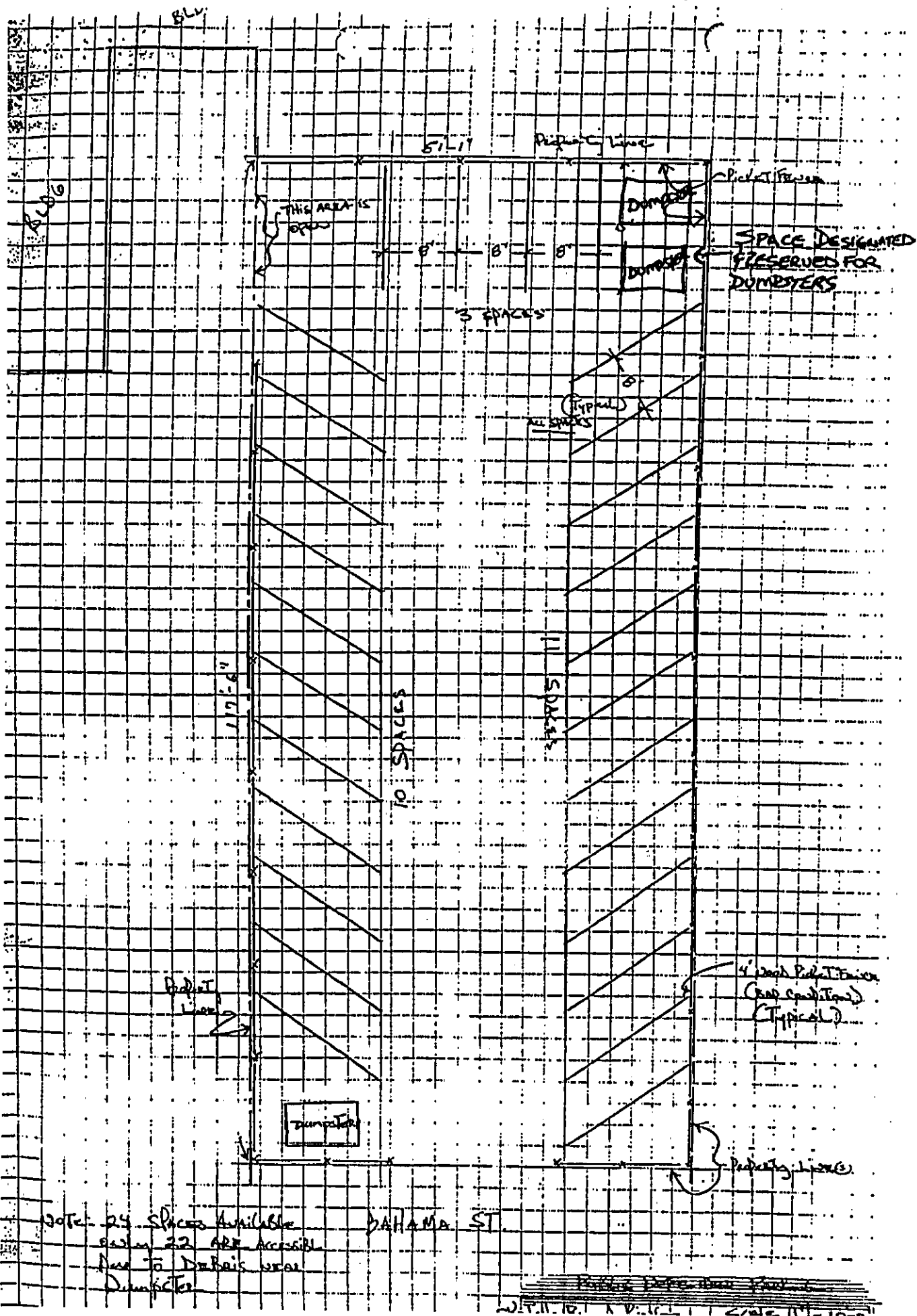


EXHIBIT "C"

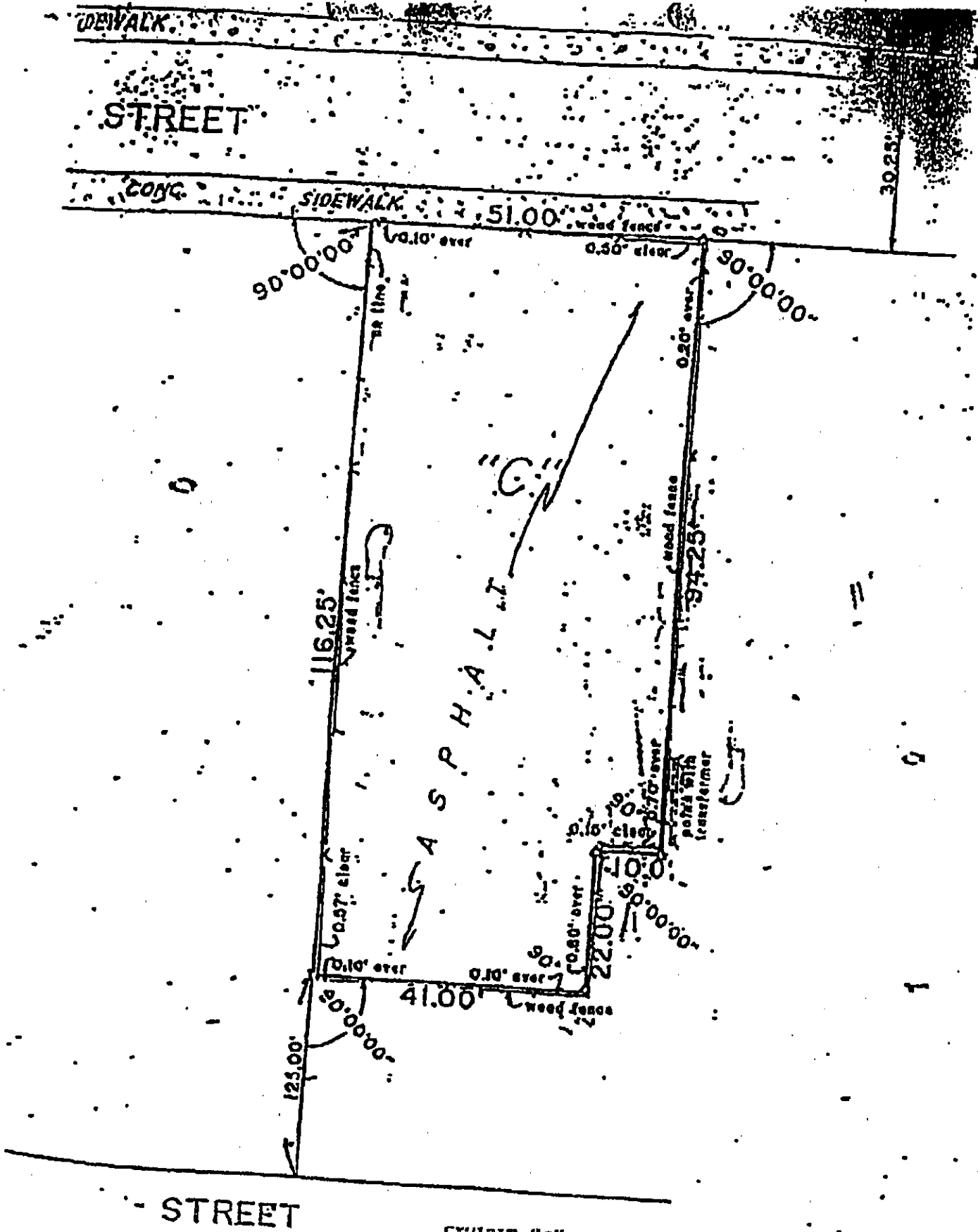


EXHIBIT "C"

Surveyor



APPRAISAL CO.
OF KEY WEST

3229 Flagler Avenue, Suite #101
Key West, Florida 33045-2152
Telephone: (305) 296-4608
Fax: (305) 296-0483

Website: fla-keysappraisals.com
Email: jim@fla-keysappraisals.com

September 2, 2004

Mr. Lynn Kephart
Fax: 305-292-1495

Dear Mr. Kephart:

Per our telephone conversation, I have researched Old Town Market Rent Comparables and have determined that Old Town professional office rents typically range from \$24 to \$27 per square foot of rentable area on a triple net basis.

In a triple net lease the tenant is responsible for their pro-rata share of the common area and exterior maintenance, building insurance, real estate property taxes, and all utilities, while the landlord pays for property management and reserves.

If you have any other questions please call my office.

APPRAISAL COMPANY OF KEY WEST

James E. Wilson
State-Certified General Appraiser
License No. RZ-0002164

JW/kc

GALETTTTSKephart.wpd



**SCHMITT
REAL ESTATE CO.**

1201 WHITE STREET, STE. 101
KEY WEST, FL 33040
BUS. (305) 296-7727
TOLL FREE (800) 308-7727
FAX (305) 294-0009
E-MAIL: schmittk@bellsouth.net
WEBSITE RealEstateFloridaKeys.com

Date: 09.02.04

TO: Lynn Kephart

FROM: Curtis Skomp, CCIM

RE: Office Rents

A tenant can expect to pay in an off Duval, Old Town office space approx. \$24/S.F. to \$27/S.F. for a gross lease. This would include base rent and all triple net expenses.

Any questions, please call any time



Each Office is Independently Owned And Operated.